

TENNESSEE ALCOHOLIC BEVERAGE COMMISSION

Minutes
January 16, 2008
1:30 p.m.

The regular meeting of the Tennessee Alcoholic Beverage Commission was held on Wednesday, January 16, 2008 in Nashville, Tennessee at 1:30 p.m. Chairman John Jones, Commissioner Cynthia Bond and Commissioner Harlan Mathews were present. Executive Director Danielle Elks, Assistant Director Carolyn Smith, CLEO Mark Hutchens, SAC Mike Cawthon, SA Brad Allison, SA William Gammel and SA Nina Williamson were present.

1. Minutes for December 20, 2007 Commission Meeting were approved.

2. NEW BUSINESS

RETAIL

A. MANCHESTER LIQUORS MANCHESTER, TENNESSEE (COFFEE COUNTY)

Seller/Licensee: Angelo Steriotis
Applicant/Buyer: Manchester Liquors, LLC
Members: Orville and Dorothy Foster

Before the Commission is a request for a transfer of ownership of the retail store located at 1656 Hillsboro Boulevard, in Manchester, Tennessee. Orville and Dorothy Foster wish to purchase this business for \$56,285, and if approved, operate the business as a LLC. The Fosters have also purchased the real estate, and they will lease the property to the applicant for a period of five years at \$1000.00/month. Financing is based upon personal funds. All documentation has been submitted.

Discussion/Action Taken:

Mark Williams, attorney, was present at the meeting. Director Elks reviewed the application to the Commissioners and recommended approval. Commissioner Mathews made a motion to approve. Commissioner Bond seconded and the motion passed with 3 ayes.

B. PRICHARDS' DISTILLERY d/b/a THE RUM SHOP AT PRICHARDS' DISTILLERY KELSO, TENNESSEE (LINCOLN COUNTY)

Applicant: Prichards' Distillery, LLC
Member: Phillip and Constance Prichard

Before the Commission is a request for a new retail store located at 11 Kelso Smithland Road in Kelso, Tennessee. Pursuant to T.C.A. §57-3-204(f) a licensed manufacturer may obtain a retail license to sell special decanters or commemorative bottles on the retail premises located on the distillery. A retail licensee at a manufacturer is further allowed to provide samples of the alcohol at the distillery. When a distillery applies for a retail license, a certificate of compliance is not required to be submitted. Prichards' Distillery has been licensed since 1999. The Prichards will initially invest \$2000 into the retail store, and financing is based upon existing corporate funds. All documentation has been submitted.

Discussion/Action Taken:

Phil Prichard was present at the meeting. Director Elks reviewed the application to the Commissioners and recommended approval. Commissioner Mathews made a motion to approve. Commissioner Bond seconded and the motion passed with 3 ayes.

**C. HURRICANE WINE AND SPIRITS
CHATTANOOGA, TENNESSEE (HAMILTON COUNTY)**

Applicant: Hurricane Wine and Spirits, LLC
Members: James Kinsella, William Woosley, David Whitener,
and Gerald Garriss

Before the Commission is a request for new retail store to be 8652 East Brainerd Road, Suite 118, in Chattanooga, Tennessee. James Kinsella, William Woosley, David Whitener, and Gerald Garriss wish to initially invest \$400,000 to operate this business, and if approved, will operate the business as a LLC. Each member would own 25%. Financing is based upon a \$400,000 line of credit to the LLC from Northwest Georgia Bank. The LLC is leasing the property from Southwest US Retail Fund, LP for a period of 5 years at \$3575/month, with a five year option. All documentation has been submitted with the exception of the following:

Line of Credit document.

Discussion/Action Taken:

Director Elks reviewed the application to the Commissioners and stated that the Line of Credit document has been received by the staff. Director Elks recommended approval. Chairman Jones made a motion to approve. Commissioner Bond seconded and the motion passed with 3 ayes.

3. DENIAL OF SERVER/EMPLOYEE PERMIT

A. DANNY WAYNE SMITH—Con’t from December, 2007 meeting

On or about November 15, 2007, staff of this agency denied the employee permit application submitted by Danny Wayne Smith because of a felony conviction (4th offense driving under the influence) in 2005. T.C.A. §57-3-703 sets forth that the “applicant for employee permit must demonstrate that ...[he] has not been convicted for any felony within the previous five years. On December 5, 2007, requested a hearing for the denial of his permit. It should be noted that Mr. Smith indicated on his application that he had never been convicted of any criminal offense.

Discussion/Action Taken:

Director Elks reviewed the application to the Commissioners and stated that this matter was continued from the December meeting. Director Elks requested a motion for default judgment because Danny Wayne Smith failed to appear. Commissioner Bond made a motion for default judgment. Commissioner Mathews seconded and the motion passed with 3 ayes.

Commissioner Mathews made a motion to uphold the denial of the permit card. Commissioner Bond seconded the motion and it passed with 3 ayes.

B. JOSEPH KYLE DAVIS

On January 3, 2008, staff of this agency denied the server permit application submitted by Joseph Kyle Davis because of a felony conviction (forgery) in October, 2005. T.C.A. §57-3-704 sets forth that the “applicant has not been convicted of any felony within the previous four (4) years.” Mr. Davis has requested a hearing for the denial of his server permit.

Discussion/Action Taken:

Mr. Joseph Kyle Davis was present at the meeting. Director Elks reviewed the application to the Commissioners and stated that his original Conspiracy to Commit Robbery was in December, 2003. Director Elks stated that the District Attorney’s office in Murfreesboro confirmed Mr. Davis’ conviction for forgery was October 2005. Therefore, based on the forgery conviction in 2005, Mr. Davis is prohibited from obtaining a server permit card for four (4) years. Mr. Davis stated that with the original charge, he signed an agreement that all charges would be expunged if he did not get in trouble in the future during the length of probation (pre-trial diversion). However, Mr. Davis indicated he did not report to his probation officer once, and the case was reopened. Mr. Davis stated that when the

charges were reopened, he was charged with the lesser of the two charges which was forgery. Mr. Davis stated that the Conspiracy to Commit Robbery and forgery were committed at the same time in December 2003.

Chairman Jones stated that the conviction was in 2003 and the endorsement occurred in 2005, the conviction date has not changed and that has been over four (4) years. Commissioner Mathews made a motion that the Commission establishes the date of the conviction as 2003 and based upon the fact that, as the record will show, he has served four (4) years, that a server permit be granted. Chairman Jones seconded the motion and it passed with 3 ayes.

Chairman Jones stated that Commissioner Mathews left the Commission meeting at 2:15 p.m. for a prior appointment.

4. ADMINISTRATIVE CITATIONS

A. SALLY MARIE LAVIGNE

On November 27, 2007, TABC Agent Brad Allison observed the Respondent serve and sell an alcoholic beverage to the nineteen year-old confidential operative at the establishment doing business as The Cheesecake Factory, in Nashville, Tennessee. The Respondent checked the minor's identification. An administrative citation was issued, and remains unresolved at the time of this agenda.

Discussion/Action Taken:

Director Elks stated that Sally Marie Lavigne has paid the administrative citation; therefore, no action is necessary.

B. LAI PING KNOG

On November 27, 2007, TABC Agent Brad Allison observed the Respondent serve and sell an alcoholic beverage to the nineteen year-old confidential operative at the establishment doing business as Chinatown Restaurant in Nashville, Tennessee. The Respondent did not check the minor's identification. An administrative citation was issued, and remains unresolved at the time of this agenda.

Discussion/Action Taken:

SA Brad Allison was present at the meeting. SA Allison testified that on November 27, 2007, that he conducted a minor compliance check at Chinatown Restaurant in Nashville using a 19 year old male confidential

informant. SA Allison testified that he entered the establishment and waited by the front door. The minor came in and he took a seat at one of the booths. He ordered sake from the server, later identified as Lai Ping Knog. She did not ask to see his ID. SA Allison testified that she went and retrieved the sake and came back and set it in front of the minor. At that point, the informant got up and left the restaurant. SA Allison testified that he went to the booth, took possession of the sake, and informed Ms. Knog that she would be charged with a sale to a minor. SA Allison testified he issued Ms. Knog an administrative citation. Director Elks recommended to the Commission that a default judgment be entered, and a \$250 fine and suspension for 90 days of the server permit be rendered. Commissioner Bond made a motion to submit payment of the \$250 fine plus a 90 day suspension of the permit beginning on January 17. Chairman Jones seconded and the motion passed with 2 ayes.

C. REBECCA ALLISON JONES

On November 27, 2007, TABC Agent Brad Allison observed the Respondent sell an alcoholic beverage to the nineteen year-old confidential operative at the establishment doing business as Corner Pub, in Nashville, Tennessee. The Respondent checked the minor's identification. An administrative citation was issued, and remains unresolved at the time of this agenda.

Discussion/Action Taken:

Director Elks stated that Rebecca Allison Jones has paid the administrative citation; so therefore, no action is necessary.

D. MICHAEL JAMES KENNEY

On November 27, 2007, TABC Agent Brad Allison observed the Respondent sell a bottle of Southern Comfort to the nineteen year-old confidential operative at the retail store doing business as Bud's Liquors and Wines, in Nashville, Tennessee. The Respondent did not check the minor's identification. An administrative citation was issued, and remains unresolved at the time of this agenda.

Discussion/Action Taken:

Director Elks stated that Michael James Kenney has paid the administrative citation; so therefore, no action is necessary.

E. NAJADA BEDINI

On December 5, 2007, TABC Agent Nina Williamson observed the Respondent sell an alcoholic beverage to the nineteen year-old confidential operative at the establishment doing business as Celtic Crossing, in Memphis, Tennessee. An administrative citation was issued, and remains unresolved at the time of this agenda.

Discussion/Action Taken:

Director Elks stated that Najada Bedini has paid the administrative citation; so therefore, no action is necessary.

F. DONNA LEANN BATSON

On December 5, 2007, TABC Agent William Gammel observed the Respondent sell an alcoholic beverage to the nineteen year-old confidential operative at the establishment doing business as El Porton Mexican Restaurant, in Memphis, Tennessee. An administrative citation was issued, and remains unresolved at the time of this agenda.

Discussion/Action Taken:

SA Gammel was present at the meeting. Director Elks requested a motion for default judgment because Donna Leann Batson failed to appear. Commissioner Bond made a motion to uphold default judgment. Chairman Jones seconded and the motion passed with 2 ayes.

SA Gammel testified that on December 5, 2007 at approximately 10:00 p.m., he entered El Porton Mexican Restaurant #4 on 65 South Highland, Memphis. SA Gammel observed the 19 year old female informant enter and sit approximately four tables from him where could observe the transaction. A server, later identified as Donna Batson took the informant's order of a margarita. The server brought the margarita to the informant, and then asked for an ID. The server looked at the ID, and handed it back to the informant before placing the alcoholic beverage in front of the minor. SA Gammel testified that the informant requested the bill and paid for the alcoholic beverage and left the restaurant. SA Gammel testified that he retrieved the alcoholic beverage and spoke with Donna Batson and the manager. SA Gammel testified that he advised them what had happened and issued Ms. Batson an administrative citation. She signed the citation and the letter from the agency explaining the hearing or the fine.

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Director Elks recommended to the Commission that a \$250 fine and a suspension for 90 days of the server permit be rendered. Commissioner Bond made a motion to submit payment of the \$250 fine plus a 90 day suspension of the server permit beginning on January 17. Chairman Jones seconded and the motion passed with 2 ayes.

- 5. BUDGET**
- 6. CONSENT ORDERS**
- 7. PENDING MATTERS LIST**
- 8. MISCELLANEOUS**
- 9. DATE OF NEXT MEETING – February 21 and March 20, 2008 at 1:30 p.m.**

There being no further business the meeting was adjourned.

John A. Jones
Chairman

Shari Danielle Elks
Executive Director